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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/763,747	01/23/2004	Ernesto S. Tachauer	05918-320001 / VGCP No.	7629
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FISH & RICHARDSON PC P.O. BOX 1022 MINNEAPOLIS, MN 55440-1022			EXAMINER EASHOO, MARK	
			ART UNIT	PAPER NUMBER
			1732	

DATE MAILED: 04/05/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

10/763,747

Applicant(s)

TACHAUER ET AL.

Examiner

Mark Eashoo, Ph.D.

Art Unit

1732

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 09 January 2006.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-49 is/are pending in the application.
- 4a) Of the above claim(s) 28-49 is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-22 and 25-27 is/are rejected.
- 7) ☒ Claim(s) 23-24 is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
 - ☐ Certified copies of the priority documents have been received in Application No. _____.
 - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- ☒ Notice of References Cited (PTO-892)
- ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- ☒ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date 1 ea.
- ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____
- ☐ Notice of Informal Patent Application (PTO-152)
- ☐ Other: _____

Art Unit: 1732

DETAILED ACTION

Election/Restrictions

Applicant's election without traverse of Group I, claims 1-27, in the reply filed on 09-JAN-2006 is acknowledged.

Claims 28-49 are withdrawn from further consideration pursuant to 37 CFR 1.142(b) as being drawn to a nonelected claim grouping, there being no allowable generic or linking claim. Election was made without traverse in the reply filed on 09-JAN-2006.

Claim Rejections - 35 USC § 112

The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

Claims 25-26 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

Specifically, claim 25 recites that sheet base material is shaped into a mold liner, however, the structure of the mold liner is not clear because the metes and bounds of the term "mold liner" is undefined.

Similarly, claim 26 recites that sheet base material is shaped into a framework, however, the structure of the mold liner is not clear because the metes and bounds of the term "framework" is undefined.

Information Disclosure Statement

The information disclosure statement filed 05-AUG-2005 complies with the provisions of 37 CFR 1.97, 1.98 and MPEP § 609. Accordingly, it has been placed in the application file and the information referred to therein has been considered as to the merits.

Claim Rejections - 35 USC § 102

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

(e) the invention was described in a patent granted on an application for patent by another filed in the United States before the invention thereof by the applicant for patent, or on an international application by another who has fulfilled the requirements of paragraphs (1), (2), and (4) of section 371(c) of this title before the invention thereof by the applicant for patent.

Art Unit: 1732

The changes made to 35 U.S.C. 102(e) by the American Inventors Protection Act of 1999 (AIPA) and the Intellectual Property and High Technology Technical Amendments Act of 2002 do not apply when the reference is a U.S. patent resulting directly or indirectly from an international application filed before November 29, 2000. Therefore, the prior art date of the reference is determined under 35 U.S.C. 102(e) prior to the amendment by the AIPA (pre-AIPA 35 U.S.C. 102(e)).

Claims 1-5, 7-8, 10-13, 16-18 and 25-26 are rejected under 35 U.S.C. 102(e) as being anticipated by Gallant et al. (US 2005/0098454 A1).

The applied reference has a common inventor with the instant application. Based upon the earlier effective U.S. filing date of the reference, it constitutes prior art under 35 U.S.C. 102(e). This rejection under 35 U.S.C. 102(e) might be overcome either by a showing under 37 CFR 1.132 that any invention disclosed but not claimed in the reference was derived from the inventor of this application and is thus not the invention "by another," or by an appropriate showing under 37 CFR 1.131.

Regarding claim 1: Gallant et al. teaches the claimed process of: providing a sheet form base having a plurality of integrally molded male fastener elements (para. 33); and subsequently thermoforming the sheet into a structure having a non-planar topography (para. 32 and Fig. 1).

Regarding claim 2: Gallant et al. incorporates by reference US Pat. 5,900,350 (para. 24) and as such further teaches: continuously introducing molten resin to a gap along the surface of a mold roll, solidifying a resin and removing the solidified resin from the mold roll (see '350, Fig. 4).

Regarding claims 3, 10-12 and 13: Gallant et al. incorporates by reference US Pat. 5,900,350 (para. 24) and as such further teaches: a mold roll and counter-rotating pressure roll (see '350, Fig. 4) having heads and stems shaped in the molding roll (see '350, Fig. 5a-5b).

Regarding claim 4: Gallant et al. incorporates by reference US Pat. 5,900,350 (para. 24) and as such further teaches: injection molding onto a mold roll (see '350, 12:5-30).

Regarding claim 5: Gallant et al. incorporates by reference US Pat. 5,900,350 (para. 24) and as such further teaches: a buffer region (see '350, Fig. 4, between elements 86 and 87).

Regarding claims 7-8: Gallant et al. incorporates by reference US Pat. 5,900,350 (para. 24) and as such further teaches: polypropylene (see '350, 12:30-36).

Regarding claims 16-18: Gallant et al. teaches sheet form base thickness of 0.5-5 mm (para. 29).

Regarding claims 25-26: Gallant et al. teaches a molded product that has a type of framework and which could be used to line a portion of a mold as an insert (Fig. 1). It is noted that the recited structures of claims 25-26 appear to be intended use of a product and do not clearly recite any particular product structure (see above rejection under 35 USC 112) and therefore is readable upon substantially any product shape.

Art Unit: 1732

Claims 1, 7-9, 16-18, 22 and 25-26 are rejected under 35 U.S.C. 102(b) as being anticipated by Romanko et al. (US Pat. 6,484,371).

Regarding claims 1 and 27: Romanko et al. teaches the claimed process of: providing a sheet form base having a plurality of integrally molded male fastener elements (9:50-10:30); subsequently thermoforming the sheet into a structure having a non-planar topography (10:40-11:30); and forming a plurality of articles having a non-planar topography (Figs. 4a-4d). It is inherent that the fastener products are cut to length after forming to form a plurality of individual products.

Regarding claims 7-9: Romanko et al. further teaches: polypropylene and polystyrene (12:35-51).

Regarding claims 16-18: Romanko et al. teaches sheet form base thickness of 0.002-0.005 in (9:25-50).

Regarding claim 22: Romanko et al. teaches a thermoformed article having an undulating surface (Figs. 4a-4d).

Regarding claims 25-26: Romanko et al. teaches a molded product that has a type of framework and which could be used to line a portion of a mold as an insert (Fig. 4a-4d). It is noted that the recited structures of claims 25-26 appear to be intended use of a product and do not clearly recite any particular product structure (see above rejection under 35 USC 112) and therefore is readable upon substantially any product shape.

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

This application currently names joint inventors. In considering patentability of the claims under 35 U.S.C. 103(a), the examiner presumes that the subject matter of the various claims was commonly owned at the time any inventions covered therein were made absent any evidence to the contrary. Applicant is advised of the obligation under 37 CFR 1.56 to point out the inventor and invention dates of each claim that was not commonly owned at the time a later invention was made in order for the examiner to consider the applicability of 35 U.S.C. 103(c) and potential 35 U.S.C. 102(e), (f) or (g) prior art under 35 U.S.C. 103(a).

Claims 6 and 21 are rejected under 35 U.S.C. 103(a) as being obvious over Gallant et al. (US 2005/0098454 A1).

The applied reference has a common inventor with the instant application. Based upon the earlier effective U.S. filing date of the reference, it constitutes prior art only under 35 U.S.C. 102(e). This rejection under 35 U.S.C. 103(a) might be overcome by: (1) a showing under 37 CFR 1.132 that any invention disclosed but not claimed in the reference was derived from the inventor of this application and is thus not an invention "by another"; (2) a showing of a date of invention for the claimed subject matter of the application which corresponds to subject matter disclosed but not claimed in the reference, prior to the effective U.S. filing date of the reference under 37 CFR 1.131; or (3) an oath or

Art Unit: 1732

declaration under 37 CFR 1.130 stating that the application and reference are currently owned by the same party and that the inventor named in the application is the prior inventor under 35 U.S.C. 104, together with a terminal disclaimer in accordance with 37 CFR 1.321(c). This rejection might also be overcome by showing that the reference is disqualified under 35 U.S.C. 103(c) as prior art in a rejection under 35 U.S.C. 103(a). See MPEP § 706.02(l)(1) and § 706.02(l)(2).

Gallant et al. teaches the basic claimed process as set forth above.

Regarding claims 6, 14, and 21: Gallant et al. does not teach continuously introducing a cross-linkable resin to a gap along the surface of a mold roll, solidifying a resin, and removing the solidified resin from the mold roll and used both cross-linkable and thermoplastic resins in making a fastener product. Nonetheless, forming different portions of a fastener element from both cross-linkable and thermoplastic resins is well known in the molding art. Similarly, fastener elements are well known to contain a foam layer in the base sheet. At the time of invention a person of ordinary skill in the art would have found it obvious to have used both cross-linkable and thermoplastic resins in making a fastener product and/or a foamed sheet layer, as commonly practiced in the art, in the process of Gallant et al., and would have been motivated to do so in order to provide a fastener product having various desired physical properties, such a strength or flexibility, in various desired locations within the final product.

Regarding claim 15: Gallant et al. does not teach vacuum thermoforming. Nonetheless, vacuum thermoforming is well known in the molding art. At the time of invention a person of ordinary skill in the art would have found it obvious to have used vacuum thermoforming, as commonly practiced in the art, in the process of Gallant et al., and would have been motivated to do so in order to provide aid material flow into deep regions of a mold cavity (such as the for forming the snap features).

Regarding claims 19-20: Gallant et al. does not teach specific molding temperatures. Nonetheless, optimizing the processing/molding temperatures of thermoplastic resins is well known in the molding art. At the time of invention a person of ordinary skill in the art would have found it obvious to have optimized the processing/molding temperatures, as commonly practiced in the art, in the process of Gallant et al., and would have been motivated to do so in order to provide a material viscosity that would allow the material to conform to the desired mold shape.

The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. See attached form PTO-892.

Allowable Subject Matter

Claims 23-24 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

The following is a statement of reasons for the indication of allowable subject matter: The prior art of record does not teach or render obvious the claimed subject matter as a whole wherein a sheet form base having male fastener elements thereon is thermoformed into an open bowl shape.

Subject matter directed to an undulating sheet form base (not merely the surface thereof) also appears not to be taught or rendered obvious by the prior art of record.

Art Unit: 1732

Correspondence

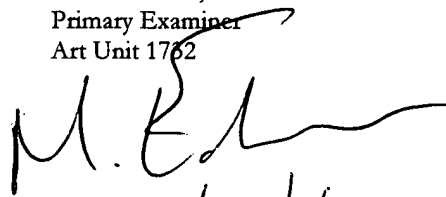
Any inquiry concerning this communication or earlier communications from the examiner should be directed to Mark Eashoo, Ph.D. whose telephone number is (571) 272-1197. The examiner can normally be reached on 7am-3pm EST, Monday - Friday.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Michael Colaianni can be reached on (571) 272-1196. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

April 3, 2006
me

Mark Eashoo, Ph.D.
Primary Examiner
Art Unit 1732



03/Apr/06